

**U.S. District Court
Eastern District of Michigan (Ann Arbor)
CIVIL DOCKET FOR CASE #: 5:17-cv-11149-JEL-EAS**

American Civil Liberties Union of Michigan v. U.S. Department
of Homeland Security et al

Assigned to: District Judge Judith E. Levy

Referred to: Magistrate Judge Elizabeth A. Stafford

Cause: 05:552 Freedom of Information Act

Date Filed: 04/12/2017

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

**American Civil Liberties Union of
Michigan**

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Defendant

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Defendant

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Matthew Berns

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
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04/12/2017	<u>1</u>	COMPLAINT for Declaratory and Injunctive Relief for Violation of the Freedom of Information Act, 5 U.S.C. Section 552 et seq. filed by American Civil Liberties Union of Michigan against U.S. Customs and Border Protection, U.S. Department of Homeland Security. Plaintiff requests summons issued. Receipt No: 0645-6180618 – Fee: $ 400. County of 1st Plaintiff: Wayne – County Where Action Arose: Wayne – [Previously dismissed case: No] [Possible companion case(s): None] (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit A–Airport Request, # <u>3</u> Exhibit B–Ports of Entry Request, # <u>4</u> Exhibit C–Airports Request, Certified Mail Receipts and Signed Returned Receipts, # <u>5</u> Exhibit D–Ports of Entry Request, Certified Mail Receipts and Signed Return Receipts, # <u>6</u> Exhibit E–CBP Acknowledgement of Airport Request, # <u>7</u> Exhibit F–CBP Acknowledgement of Ports of Entry Request) (Bedoya, Gabriel) (Entered: 04/12/2017)
04/12/2017	<u>2</u>	STATEMENT of DISCLOSURE of CORPORATE AFFILIATIONS and FINANCIAL INTEREST by American Civil Liberties Union of Michigan (Bedoya, Gabriel) (Entered: 04/12/2017)
04/12/2017	<u>3</u>	ATTORNEY APPEARANCE: Andrew M. Pauwels appearing on behalf of American Civil Liberties Union of Michigan (Pauwels, Andrew) (Entered: 04/12/2017)
04/12/2017	<u>4</u>	ATTORNEY APPEARANCE: Andrew Goddeeris appearing on behalf of American Civil Liberties Union of Michigan (Goddeeris, Andrew) (Entered: 04/12/2017)
04/12/2017	<u>5</u>	ATTORNEY APPEARANCE: Miriam J. Aukerman appearing on behalf of American Civil Liberties Union of Michigan (Aukerman, Miriam) (Entered: 04/12/2017)
04/12/2017	<u>6</u>	NOTICE of Appearance by Michael J. Steinberg on behalf of All Plaintiffs. (Steinberg, Michael) (Entered: 04/12/2017)
04/12/2017	<u>7</u>	SUMMONS Issued for *U.S. Customs and Border Protection* (LHos) (Entered: 04/12/2017)
04/12/2017	<u>8</u>	SUMMONS Issued for *U.S. Department of Homeland Security* (LHos) (Entered: 04/12/2017)
04/12/2017	<u>9</u>	SUMMONS Issued for the United States Attorney and the Office of the Attorney General. (LHos) (Entered: 04/12/2017)
04/12/2017		A United States Magistrate Judge of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form is available for download at http://www.mied.uscourts.gov (LHos) (Entered: 04/12/2017)
04/19/2017	<u>10</u>	CERTIFICATE of Service/Summons Returned Executed. U.S. Attorney on behalf of U.S. Customs and Border Protection served on 4/13/2017, answer due 6/12/2017; U.S. Department of Homeland Security served on 4/13/2017, answer due 6/12/2017. (Bedoya, Gabriel) (Entered: 04/19/2017)
04/25/2017	<u>11</u>	CERTIFICATE of Service/Summons Returned Executed. U.S. Customs and Border Protection served on 04/19/2017. (Bedoya, Gabriel) (Entered: 04/25/2017)
05/08/2017	<u>12</u>	NOTICE of Appearance by Matthew Berns on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Berns, Matthew) (Entered: 05/08/2017)
05/08/2017	<u>13</u>	CERTIFICATE of Service/Summons Returned Executed. U. S. Department of Homeland Security served on 04/17/17. (Bedoya, Gabriel) (Entered: 05/08/2017)
05/08/2017	<u>14</u>	NOTICE by All Defendants of Motion filed with the JPML to Transfer Action Pursuant to 28 U.S.C. 1407 (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit 1 – Transfer Motion, # <u>3</u> Exhibit 2 – Supporting Memorandum, # <u>4</u> Exhibit 3 – Schedule of Actions) (Berns, Matthew) (Entered: 05/08/2017)
05/16/2017	<u>15</u>	STIPULATED ORDER for Extension of Time to Respond to Plaintiff's Complaint – Signed by District Judge Judith E. Levy. (FMos) (Entered: 05/16/2017)
05/19/2017	<u>16</u>	MOTION to Stay Proceedings Pending Decision on Motion to Transfer by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Berns, Matthew) (Entered: 05/19/2017)

05/19/2017	<u>17</u>	NOTICE of Appearance by Chetan Patil on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Patil, Chetan) (Entered: 05/19/2017)
05/22/2017	<u>18</u>	Notice of Determination of Motion Without Oral Argument re <u>16</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> (FMos) (Entered: 05/22/2017)
05/31/2017	<u>19</u>	NOTICE of Joinder/Concurrence in by American Civil Liberties Union of Michigan <i>in Opposition to Defendants' Motion for Transfer to the District of Columbia for Consolidation</i> (Attachments: # <u>1</u> Index of Exhibits Index of Exhibits, # <u>2</u> Exhibit 1 – Memorandum of Plaintiffs, # <u>3</u> Exhibit 2 – Joinder) (Bedoya, Gabriel) (Entered: 05/31/2017)
06/02/2017	<u>20</u>	RESPONSE to <u>16</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> filed by American Civil Liberties Union of Michigan. (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit 1–Declaration of Farah Al-Khersan, # <u>3</u> Exhibit 2–Declaration of Ruby Robinson, # <u>4</u> Exhibit 3–Declaration of Ahmed Shalabi, MD, # <u>5</u> Exhibit 4–Memorandum of Plaintiffs) (Bedoya, Gabriel) (Entered: 06/02/2017)
06/06/2017	<u>21</u>	NOTICE by All Defendants of <i>Filing JPML Reply Brief</i> (Attachments: # <u>1</u> JPML Reply Brief) (Berns, Matthew) (Entered: 06/06/2017)
06/07/2017	<u>22</u>	NOTICE by American Civil Liberties Union of Michigan re <u>20</u> Response to Motion, <i>Plaintiff's Notice of Supplemental Authority</i> (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit A–Order Denying Motion to Stay Proceeding, # <u>3</u> Exhibit B–Motion to Stay Proceedings) (Bedoya, Gabriel) (Entered: 06/07/2017)
06/09/2017	<u>23</u>	REPLY to Response re <u>16</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Berns, Matthew) (Entered: 06/09/2017)
06/16/2017	<u>24</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security re <u>22</u> Notice (Other), <i>Defendants' Response to Plaintiff's Notice of Supplemental Authority</i> (Berns, Matthew) (Entered: 06/16/2017)
06/19/2017	<u>25</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security of <i>Decision in Related Case</i> (Attachments: # <u>1</u> District of Maine Order) (Berns, Matthew) (Entered: 06/19/2017)
06/20/2017	<u>26</u>	RESPONSE to <u>25</u> Notice (Other) <i>Defendants' Notice of Decision and Certificate of Service</i> by American Civil Liberties Union of Michigan. (Bedoya, Gabriel) (Entered: 06/20/2017)
06/22/2017	<u>27</u>	NOTICE by All Defendants of <i>Recent Decisions</i> (Attachments: # <u>1</u> Central District of California Opinion, # <u>2</u> District of Oregon Opinion) (Berns, Matthew) (Entered: 06/22/2017)
06/22/2017	<u>28</u>	ORDER signed by District Judge Judith E. Levy denying <u>16</u> Motion to Stay. (Grimes, K.) (Entered: 06/22/2017)
06/29/2017	<u>29</u>	ANSWER to Complaint with Affirmative Defenses by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Patil, Chetan) (Entered: 06/29/2017)
06/30/2017	<u>30</u>	NOTICE TO APPEAR: Scheduling Conference set for 8/1/2017 at 10:00 AM before District Judge Judith E. Levy. (SBur) (Entered: 06/30/2017)
07/13/2017		Set Deadlines/Hearings: Scheduling Conference reset for 8/10/2017 at 10:30 AM before District Judge Judith E. Levy. (SBur) (Entered: 07/13/2017)
07/25/2017		Set Deadlines/Hearings: ***TIME CHANGE ONLY*** Scheduling Conference set for 8/10/2017 at 11:30 AM before District Judge Judith E. Levy. (SBur) (Entered: 07/25/2017)
08/03/2017	<u>31</u>	ORDER Denying Transfer from Multidistrict Litigation Panel for MDL 2786. (SSch) (Entered: 08/03/2017)
08/04/2017		Set Deadlines/Hearings: Scheduling Conference reset for 9/7/2017 at 10:30 AM before District Judge Judith E. Levy. (SBur) (Entered: 08/04/2017)

08/04/2017	<u>32</u>	DISCOVERY plan jointly filed pursuant to Federal Rules of Civil Procedure 26(f) (Bedoya, Gabriel) (Entered: 08/04/2017)
08/31/2017	<u>33</u>	DISCOVERY plan jointly filed pursuant to Federal Rules of Civil Procedure 26(f) (Bedoya, Gabriel) (Entered: 08/31/2017)
09/05/2017	<u>34</u>	NOTICE of Appearance by Julie Straus Harris on behalf of All Defendants. (Straus Harris, Julie) (Entered: 09/05/2017)
09/07/2017		Minute Entry for proceedings before District Judge Judith E. Levy: Status Conference held on 9/7/2017. Scheduling Conference to be rescheduled at a later date. (SBur) (Entered: 09/07/2017)
09/07/2017	<u>35</u>	ORDER Regarding Production and Setting of Dates. (TELEPHONIC Status Conference set for 11/8/2017 at 10:00 AM before District Judge Judith E. Levy) – Plaintiff shall initiate the call at 734.887.4700. Signed by District Judge Judith E. Levy. (SBur) (Entered: 09/07/2017)
09/15/2017	<u>36</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security <i>Defendants' Proposal for Review and Production of Email Records</i> (Straus Harris, Julie) (Entered: 09/15/2017)
09/20/2017	<u>37</u>	NOTICE by American Civil Liberties Union of Michigan re <u>36</u> Notice (Other) <i>Plaintiff's Response to Defendants' Proposal for Review and Production of Email Records</i> (Attachments: # <u>1</u> Exhibit A–Declaration of Scott Pilat with Resume, # <u>2</u> Exhibit B–Rickerd Letter) (Bedoya, Gabriel) (Entered: 09/20/2017)
09/27/2017	<u>38</u>	MOTION for Withdrawal of Attorney Matthew J. Berns and Chetan A. Patil by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Patil, Chetan) (Entered: 09/27/2017)
09/28/2017	<u>39</u>	ORDER granting <u>38</u> Motion to Withdraw as Attorney.. Signed by District Judge Judith E. Levy. (DWor) (Entered: 09/28/2017)
09/29/2017	<u>40</u>	Joint Status REPORT by American Civil Liberties Union of Michigan (Bedoya, Gabriel) (Entered: 09/29/2017)
10/05/2017	<u>41</u>	ORDER Moving Telephonic Status Conference. (TELEPHONIC Status Conference set for 10/26/2017 at 9:30 AM before District Judge Judith E. Levy) Please use the following call–in information: 888.363.4734; Access Code: 2541474. Signed by District Judge Judith E. Levy. (SBur) (Entered: 10/05/2017)
10/26/2017		Minute Entry for proceedings before District Judge Judith E. Levy: Telephonic Status Conference held on 10/26/2017. (Court Reporter: Jeseca Eddington) (SBur) (Entered: 10/26/2017)
10/26/2017	<u>42</u>	ORDER Regarding Production of Documents from Initial Custodians and Supplemental Briefing. Signed by District Judge Judith E. Levy. (SBur) (Entered: 10/26/2017)
11/09/2017	<u>43</u>	SUPPLEMENTAL BRIEF re <u>42</u> Order filed by American Civil Liberties Union of Michigan. (Attachments: # <u>1</u> Index of Exhibits Index of Exhibits, # <u>2</u> Exhibit A–Spreadsheet, # <u>3</u> Exhibit B–Sample Form I–44, # <u>4</u> Exhibit C–Email Exchange) (Bedoya, Gabriel) (Entered: 11/09/2017)
11/28/2017	<u>44</u>	SUPPLEMENTAL BRIEF re <u>42</u> Order, <u>43</u> Supplemental Brief, <i>Response to Plaintiff's Supplemental Brief Pursuant to Court Order</i> filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Attachments: # <u>1</u> Exhibit Declaration of Patrick Howard) (Straus Harris, Julie) (Entered: 11/28/2017)
12/08/2017	<u>45</u>	SUPPLEMENTAL BRIEF re <u>43</u> Supplemental Brief, <i>Plaintiff's Reply Brief Pursuant to Court Order</i> filed by American Civil Liberties Union of Michigan. (Attachments: # <u>1</u> Exhibit A–Spreadsheet) (Bedoya, Gabriel) (Entered: 12/08/2017)
03/29/2018	<u>46</u>	NOTICE of Appearance by Ashley Cheung on behalf of All Defendants. (Cheung, Ashley) (Entered: 03/29/2018)
04/27/2018	<u>47</u>	Joint Status REPORT by American Civil Liberties Union of Michigan (Bedoya, Gabriel) (Entered: 04/27/2018)

06/21/2018	<u>48</u>	NOTICE TO APPEAR BY TELEPHONE: Telephonic Status Conference set for 7/16/2018 at 11:00 AM before District Judge Judith E. Levy. Please use the following call-in information: 888.363.4734; Access Code: 2541474 (SBur) (Entered: 06/21/2018)
06/27/2018		Set Deadlines/Hearings: TELEPHONIC Status Conference reset for 7/31/2018 at 10:00 AM before District Judge Judith E. Levy. Please use the following call-in information: 888.363.4734; Access Code: 2541474 (SBur) (Entered: 06/27/2018)
07/31/2018		Minute Entry for proceedings before District Judge Judith E. Levy: Telephonic Status Conference held on 7/31/2018. Parties are to meet and confer by 8/10/18 regarding outstanding production issues, including production of sample TECS records. Parties are to provide a proposed order setting briefing schedule for dispositive motions on or before 8/24/18. (Court Reporter: Darlene May) (SBur) (Entered: 07/31/2018)
08/24/2018	<u>49</u>	Joint Status REPORT by All Defendants (Cheung, Ashley) (Entered: 08/24/2018)
08/24/2018		TEXT-ONLY ORDER re <u>49</u> Joint Status Report. The parties are required to file a joint status report by no later than November 30, 2018. Signed by District Judge Judith E. Levy. (SBur) (Entered: 08/24/2018)
08/30/2018	<u>50</u>	NOTICE by All Defendants re <u>44</u> Supplemental Brief, <i>Production of Sample TECS Records</i> (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit Sample TECS Record 1, # <u>3</u> Exhibit Sample TECS Record 2, # <u>4</u> Exhibit Sample TECS Record 3, # <u>5</u> Exhibit Sample TECS Record 4, # <u>6</u> Exhibit Sample TECS Record 5, # <u>7</u> Exhibit Sample TECS Record 6, # <u>8</u> Exhibit Sample TECS Record 7, # <u>9</u> Exhibit Sample TECS Record 8, # <u>10</u> Exhibit Sample TECS Record 9, # <u>11</u> Exhibit Sample TECS Record 10, # <u>12</u> Exhibit Sample TECS Record 11, # <u>13</u> Exhibit Sample TECS Record 12, # <u>14</u> Exhibit Sample TECS Record 13, # <u>15</u> Exhibit Sample TECS Record 14, # <u>16</u> Exhibit Sample TECS Record 15, # <u>17</u> Exhibit Sample TECS Record 16, # <u>18</u> Exhibit Sample TECS Record 17, # <u>19</u> Exhibit Sample TECS Record 18) (Cheung, Ashley) (Entered: 08/30/2018)
10/04/2018	<u>51</u>	TRANSCRIPT of Telephonic Status Conference held on July 31, 2018. (Court Reporter: Darlene K. May) (Number of Pages: 38) The parties have 21 days to file with the court and Court Reporter a Redaction Request of this transcript. If no request is filed, the transcript may be made remotely electronically available to the public without redaction after 90 days. Redaction Request due 10/25/2018. Redacted Transcript Deadline set for 11/5/2018. Release of Transcript Restriction set for 1/2/2019. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, the transcript is publicly available. (May, D) (Entered: 10/04/2018)
11/30/2018	<u>52</u>	NOTICE of Change of Address/Contact Information by Ashley Cheung on behalf of All Defendants. (Cheung, Ashley) (Entered: 11/30/2018)
11/30/2018	<u>53</u>	Joint Status REPORT by All Defendants (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Plaintiff's Exhibit A, # <u>3</u> Plaintiff's Exhibit B, # <u>4</u> Plaintiff's Exhibit C, # <u>5</u> Plaintiff's Exhibit D, # <u>6</u> Defendants' Exhibit E, # <u>7</u> Defendants' Exhibit F, # <u>8</u> Defendants' Exhibit G) (Cheung, Ashley) (Entered: 11/30/2018)
12/18/2018	<u>54</u>	NOTICE TO APPEAR: Miscellaneous Hearing re <u>53</u> Joint Status Report set for 1/28/2019 at 2:00 PM before District Judge Judith E. Levy. (SBur) (Entered: 12/18/2018)
01/11/2019	<u>55</u>	MOTION to Adjourn <u>54</u> Notice to Appear by American Civil Liberties Union of Michigan. (Pauwels, Andrew) (Entered: 01/11/2019)
01/14/2019		TEXT-ONLY ORDER Granting in Part <u>55</u> MOTION to Adjourn. (Miscellaneous Hearing re <u>53</u> Joint Status Report reset for 2/13/2019 at 10:00 AM before District Judge Judith E. Levy) Signed by District Judge Judith E. Levy. (SBur) (Entered: 01/14/2019)
01/25/2019	<u>56</u>	MOTION to Stay <i>the Entire Case in Light of Lapse of Appropriations</i> by All Defendants. (Cheung, Ashley) (Entered: 01/25/2019)
01/28/2019	<u>57</u>	NOTICE by All Defendants of withdrawal of <u>56</u> MOTION to Stay <i>the Entire Case in Light of Lapse of Appropriations</i> . (Cheung, Ashley) (Entered: 01/28/2019)

02/04/2019	<u>58</u>	Joint MOTION to Adjourn Text–Only Order,, Terminate Motions,, Set Deadlines/Hearings, , Joint MOTION to Stay <i>the Case</i> by All Defendants. (Cheung, Ashley) (Entered: 02/04/2019)
02/05/2019		Set Deadlines/Hearings: Miscellaneous Hearing re <u>53</u> Joint Status Report reset for 4/1/2019 at 10:00 AM before District Judge Judith E. Levy. (SBur) (Entered: 02/05/2019)
02/05/2019		TEXT–ONLY ORDER Granting <u>58</u> Joint MOTION to Adjourn. Signed by District Judge Judith E. Levy. (SBur) (Entered: 02/05/2019)
03/22/2019		Set Deadlines/Hearings: Miscellaneous Hearing re <u>53</u> Joint Status Report reset for 5/1/2019 at 3:00 PM before District Judge Judith E. Levy. (SBur) (Entered: 03/22/2019)
04/26/2019		TEXT–ONLY NOTICE: Miscellaneous Hearing on May 1, 2019 is Cancelled due to the Parties Ongoing Settlement Negotiations. (SBur) (Entered: 04/26/2019)
04/26/2019	<u>59</u>	ORDER REFERRING OTHER MATTERS to Magistrate Judge Stafford: Settlement Conference. Signed by District Judge Judith E. Levy. (SBur) (Entered: 04/26/2019)